

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARIA JESUS ANELLO,
Plaintiff,
v.
NANCY A. BERRYHILL,
Defendant.

Case No. [18-cv-00070-DMR](#)

**ORDER GRANTING MOTION TO SET
ASIDE JUDGMENT, REOPENING
CASE, AND SETTING HEARING ON
MOTION TO DISMISS**

Re: Dkt. No. 32

On June 26, 2018, the court issued an Order to Show Cause instructing pro se Plaintiff Maria Jesus Anello to submit a written statement by July 3, 2018 explaining her failure to file an opposition to Defendant Nancy A. Berryhill's motion to dismiss. [Docket No. 26.] No such statement was filed by the deadline. On July 6, 2018, the court dismissed this matter without prejudice for failure to prosecute and entered judgment against Ms. Anello. [Docket Nos. 30, 31.] The court subsequently learned that Ms. Anello requested assistance from the ECF Helpdesk with e-filing her response to the Order to Show Cause and faxed her response to Defendant's attorney before the July 3, 2018 deadline. Ms. Anello had also emailed her response to the Order to Show Cause to the undersigned's Courtroom Deputy on July 4, 2018. In her response, Ms. Anello explained that she was unable to timely file an opposition to the motion to dismiss due to a serious illness and requested a further extension of the deadline. [Docket No. 32.]

On July 10, 2018, the court issued an order construing Ms. Anello's response to the Order to Show Cause as a motion to set aside the July 6, 2018 judgment pursuant to Federal Rule of Civil Procedure 60(b). [Docket Nos. 32, 33.] That rule provides that "the court may relieve a party or its legal representative from a final judgment, order, or proceeding for . . . mistake, inadvertence, surprise, or excusable neglect[.]" Fed. R. Civ. P. 60(b)(1). On July 13, 2018, Defendant filed a statement of non-opposition to the motion to set aside the judgment. [Docket

No. 35.] Ms. Anello filed a combined request to reopen the case and opposition to the motion to dismiss on the same day. [Docket No. 36.]

The unopposed motion to set aside the July 6, 2018 judgment is GRANTED. The Clerk is directed to reopen this case. Because the court has set aside the judgment and reopened the case, Ms. Anello's request to reopen the case need not be considered because it is moot. The court construes her July 13, 2018 submission as her opposition to the motion to dismiss. Defendant shall file a reply to her opposition by July 23, 2018. The court will conduct a hearing on the motion to dismiss on **August 9, 2018 at 11:00 a.m.** at the U.S. District Court, 1301 Clay Street, Oakland, California 94612. For courtroom number and floor information, please check the Court's on-line calendar at <http://www.cand.uscourts.gov> (click "Calendars – Judges' Weekly Calendars" link, then select Judge Ryu's calendar).

The court refers Ms. Anello to the Court's Legal Help Centers for unrepresented parties. In San Francisco, the Legal Help Center is located on the 15th Floor, Room 2796, of the United States Courthouse, 450 Golden Gate Avenue, San Francisco. In Oakland, the Legal Help Center is located on the 4th Floor, Room 470S, of the United States Courthouse, 1301 Clay Street, Oakland.

IT IS SO ORDERED.

Dated: July 16, 2018

